

trace bombs to the criminals who made them and bring those criminals to justice.

This legislation is a strong step forward for our security, but we mustn't stop there. I am directing the Secretary of the Treasury to complete the study of taggants required by Congress and propose appropriate regulations as quickly as possible. We must also address the problem of black and smokeless powders, routinely used to make illegal smokeless devices like pipe bombs. I'm directing Secretary Rubin to consult with industry representatives and the law enforcement community to report back with appropriate recommendations.

Finally, I believe we have to take additional steps. I believe we must do more to help police keep terrorists who are suspected terrorists under surveillance. I believe we should give law enforcement more time to investigate and prosecute terrorists who use machine guns, sawed-off shotguns, and explosive devices. I agree with police officers that instead of creating a commission to study them, in the end we must ban cop-killer bullets.

Nonetheless, make no mistake about it: This bill strikes a mighty blow against terrorism, and it is fitting that this bill becomes law during National Crime Victims' Rights Week, because it stands up for victims in so many important ways. There are a lot of victims' advocates and victims here, and I thank them for their presence today. This bill recognizes that victims have a compelling interest in the trials of those accused of committing crimes against them and requires closed-circuit television coverage when Federal trials are moved far away, a provision we owe to the vigilance of the Members of Congress from Oklahoma. And we thank you for it.

I'd like to close with a word to all of the family members of Americans slain by terrorists and to the survivors of terrorism, to the children who lost their parents in Pan Am 103 and parents who lost their children in Israel, to all of you from Oklahoma City, to Andrew Kerr on my staff of the National Security Council whose father was murdered in Beirut, to each and every one of you with us today and those who are watching all across this great land of ours. Your endurance

and your courage is a lesson to us all. Your vigilance has sharpened our vigilance.

And so I sign my name to this bill in your names. We renew our fight against those who seek to terrorize us in your names. We send a loud, clear message today all over the world in your names. America will never surrender to terror. America will never tolerate terrorism. America will never abide terrorists. Wherever they come from, wherever they go, we will go after them. We will not rest until we have brought them all to justice and secured a future for our people, safe from the harm they would do—in your names.

Thank you. God bless you, and God bless America.

NOTE: The President spoke at 2:50 p.m. on the South Lawn at the White House. In his remarks, he referred to Mary Joe White, New York U.S. Attorney, whose office prosecuted the World Trade Center bombing. S. 735, approved April 24, was assigned Public Law No. 104-132.

Statement on Signing the Antiterrorism and Effective Death Penalty Act of 1996

April 24, 1996

I have today signed into law S. 735, the "Antiterrorism and Effective Death Penalty Act of 1996." This legislation is an important step forward in the Federal Government's continuing efforts to combat terrorism.

I first transmitted antiterrorism legislation to the Congress in February 1995. Most of the proposals in that legislation, the "Omnibus Counterterrorism Act of 1995," were aimed at fighting international terrorism. After the tragedy in Oklahoma City, I asked Federal law enforcement agencies to reassess their needs and determine which tools would help them meet the new challenge of domestic terrorism. They produced, and I transmitted to the Congress, the "Antiterrorism Amendments Act of 1995" in May 1995.

Together, these two proposals took a comprehensive approach to fighting terrorism both at home and abroad. I am pleased that the Congress included most of the provisions of these proposals in this legislation. As a result, our law enforcement officials will have tough new tools to stop terrorists before they

strike and to bring them to justice if they do. In particular, this legislation will:

- provide broad new Federal jurisdiction to prosecute anyone who commits a terrorist attack in the United States or who uses the United States as a planning ground for attacks overseas;
- ban fundraising in the United States that supports terrorist organizations;
- allow U.S. officials to deport terrorists from American soil without being compelled by the terrorists to divulge classified information, and to bar terrorists from entering the United States in the first place;
- require plastic explosives to contain chemical markers so that criminals who use them—like the ones that blew up Pan Am Flight 103—can be tracked down and prosecuted;
- enable the Government to issue regulations requiring that chemical taggants be added to some other types of explosives so that police can better trace bombs to the criminals who make them;
- increase our controls over biological and chemical weapons;
- toughen penalties over a range of terrorist crimes;
- ban the sale of defense goods and services to countries that I determine are not “cooperating fully” with U.S. antiterrorism efforts. Such a determination will require a review of a country’s overall level of cooperation in our efforts to fight terrorism, taking into account our counterterrorism objectives with that country and a realistic assessment of its capabilities.

By enacting this legislation, the United States remains in the forefront of the international effort to fight terrorism through tougher laws and resolute enforcement.

Nevertheless, as strong as this bill is, it should have been stronger. For example, I asked the Congress to give U.S. law enforcement increased wiretap authority in terrorism cases, including the power to seek multi-point wiretaps, enabling police to follow a suspected terrorist from phone to phone, and authority for the kind of emergency wiretaps available in organized crime cases. But the Congress refused.

After I proposed that the Secretary of the Treasury consider the inclusion of taggants in explosive materials, so that bombs can be traced more easily to the bomb makers, the Congress exempted black and smokeless powder—two of the most commonly used substances in improvised explosive devices.

I asked that law enforcement be given increased access to hotel, phone and other records in terrorism cases. I asked for a mandatory penalty for those who knowingly transfer a firearm for use in a violent felony. I asked for a longer statute of limitations to allow law enforcement more time to prosecute terrorists who use weapons such as machine guns, sawed-off shotguns, and explosive devices. But the Congress stripped each of these provisions out of the bill. And when I asked for a ban on cop-killer bullets, the Congress delivered only a study, which will delay real action to protect our Nation’s police officers.

I intend to keep urging the Congress to give our law enforcement officials all the tools they need and deserve to carry on the fight against international and domestic terrorism. This is no time to give the criminals a break.

There are three other portions of this bill that warrant comment. First, I have long sought to streamline Federal appeals for convicted criminals sentenced to the death penalty. For too long, and in too many cases, endless death row appeals have stood in the way of justice being served. Some have expressed the concern that two provisions of this important bill could be interpreted in a manner that would undercut meaningful Federal habeas corpus review. I have signed this bill because I am confident that the Federal courts will interpret these provisions to preserve independent review of Federal legal claims and the bedrock constitutional principle of an independent judiciary.

Section 104(3) provides that a Federal district court may not issue a writ of habeas corpus with respect to any claim adjudicated on the merits in State court unless the decision reached was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court. Some have suggested that this provision will limit the authority of the Federal

courts to bring their own independent judgment to bear on questions of law and mixed questions of law and fact that come before them on habeas corpus.

In the great 1803 case of *Marbury v. Madison*, Chief Justice John Marshall explained for the Supreme Court that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” Section 104(3) would be subject to serious constitutional challenge if it were read to preclude the Federal courts from making an independent determination about “what the law is” in cases within their jurisdiction. I expect that the courts, following their usual practice of construing ambiguous statutes to avoid constitutional problems, will read section 104 to permit independent Federal court review of constitutional claims based on the Supreme Court’s interpretation of the Constitution and Federal laws.

Section 104(4) limits evidentiary hearings in Federal habeas corpus cases when “the applicant has failed to develop the factual basis of a claim in State court proceedings.” If this provision were read to deny litigants a meaningful opportunity to prove the facts necessary to vindicate Federal rights, it would raise serious constitutional questions. I do not read it that way. The provision applies to situations in which “the *applicant* has failed to develop the factual basis” of his or her claim. Therefore, section 104(4) is not triggered when some factor that is not fairly attributable to the applicant prevented evidence from being developed in State court.

Preserving the Federal courts’ authority to hear evidence and decide questions of law has implications that go far beyond the issue of prisoners’ rights. Our constitutional ideal of a limited government that must respect individual freedom has been a practical reality because independent Federal courts have the power “to say what the law is” and to apply the law to the cases before them. I have signed this bill on the understanding that the courts can and will interpret these provisions of section 104 in accordance with this ideal.

This bill also makes a number of major, ill-advised changes in our immigration laws having nothing to do with fighting terrorism. These provisions eliminate most remedial re-

lief for long-term legal residents and restrict a key protection for battered spouses and children. The provisions will produce extraordinary administrative burdens on the Immigration and Naturalization Service. The Administration will urge the Congress to correct them in the pending immigration reform legislation.

I also regret that the Congress included in this legislation a commission to study Federal law enforcement that was inspired by special interests who are no friends of our Nation’s law enforcement officers. The Congress has responsibility to oversee the operation of Federal law enforcement; to cede this power to an unelected and unaccountable commission is a mistake. Our Nation’s resources would be better spent supporting the men and women in law enforcement, not creating a commission that will only get in their way.

I hope that there will be an opportunity to revisit these and other issues, as well as some of the other proposals this Administration has made, but upon which the Congress refused to act.

This legislation is a real step in the right direction. Although it does not contain everything we need to combat terrorism, it provides valuable tools for stopping and punishing terrorists. It stands as a tribute to the victims of terrorism and to the men and women in law enforcement who dedicate their lives to protecting all of us from the scourge of terrorist activity.

William J. Clinton

The White House,
April 24, 1996.

NOTE: S. 735, approved April 24, was assigned Public Law No. 104-132.

Executive Order 13000—Order of Succession of Officers To Act as Secretary of Defense
April 24, 1996

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 3347 of title 5, United States Code, it is hereby ordered as follows: